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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,712	01/18/2001	Paul W. Dent	8194-36DVCT	7572
20792	7590	08/07/2006	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			NGUYEN, TOAN D	
PO BOX 37428			ART UNIT	
RALEIGH, NC 27627			PAPER NUMBER	
			2616	

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/764,712

Applicant(s)

DENT, PAUL W.

Examiner

Toan D. Nguyen

Art Unit

2616

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 26 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 7/26/06  
13. ☐ Other: \_\_\_\_\_.

  
HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because: The applicant argues that Ketseoglu does not say anything about different frequency allocations for different spreading codes, and does not teach or suggest that different frequency allocations are used for respective codes. Thus, the actual cited material from Ketseoglu does not provide the teaching alleged in the final Office Action. The examiner disagrees. Ketseoglu discloses at col. 3 lines 17-22, "The system may comprise a number of 'stack' base stations in a single cell, each operating over a different frequency or using different spreading codes." Then at col. 8 lines 2-14 (see figure 5), Ketseoglu clearly teaches further "Associated with each cell 103 is an assigned frequency and an assigned spread spectrum code." (different frequency allocation for different spreading codes, and that different frequency allocation are used for respective codes means.

Applicant argues that Ketseoglu does not disclose or suggest, among other things: "allocating cellular radiotelephone frequencies among said plurality of base stations according to a first frequency allocation system for a first one of said spreading codes and according to a second frequency allocation system different from said first frequency allocation system for a second one of said spreading codes," as recited in independent claim 20; "applying a first frequency reuse pattern for the first spreading code; and applying a second frequency reuse pattern for the second spreading code," as recited in independent claim 32; "using frequencies that are allocated among said plurality of base stations such that frequencies are allocated for a first one of said spreading codes according to a first frequency allocation system and are allocated for a second one of said spreading codes according to a second frequency allocation system different from said first frequency allocation system," as recited in independent claim 36; or "a code reuse partitioning circuit operative to allocate frequencies for use in the plurality of cell such that respective different frequency allocations are provided for respective first and second spreading codes used in each of the cells," as recited in independent claim 39.

In response, Ketseoglu clearly discloses allocating cellular radiotelephone frequencies (figure 5, references F1, F2 and F3) among said plurality of base stations (figure 5, reference 103) (col. 7 line 66 to col. 8 line 5) according to a first frequency allocation system for a first one of said spreading codes and according to a second frequency allocation system different from said first frequency allocation system for a second one of said spreading codes (col. 8 lines 2-3) as recited in independent claim 20; applying a first frequency reuse pattern for the first spreading code (figure 5, col. 8 lines 2-11); and applying a second frequency reuse pattern for the second spreading code (figure 5, col. 8 lines 2-11) as recited in independent claim 32; using frequencies (figure 5, references F1, F2 and F3) that are allocated among said plurality of base stations (figure 5, reference 103) such that frequencies are allocated for a first one of said spreading codes according to a first frequency allocation system and are allocated for a second one of said spreading codes according to a second frequency allocation system different from said first frequency allocation system (col. 8 lines 2-3), as recited in independent claim 36; or a code reuse partitioning circuit operative to allocate frequencies for use in the plurality of cell such that respective different frequency allocations are provided for respective first and second spreading codes (figure 5, col. 8 lines 2-11) used in each of the cells (col. 3 lines 17-22 and col. 8 lines 2-14). as recited in independent claim 39. Therefore, the examiner retained the final Office action..